IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 25223 of 2004

Between:

Sri Potti Sriramulu Committee Upper Primary School,
Gudur, Nellore Dsitrict, Rep by its Correspondent,
Manapati Ravindra Babu

..... PETITIONER

AND

1 The Government of Andhra Pradesh,
Rep. by its Principal Secretary,
Education (SE.PS) Department,
Secretariat Buildings, Hyderabad.
2 The Commissioner & Director of School Education,
Andhra Pradesh, Hyderabad.
3 The District Educational Officer, Nellore, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the Respondents in not permitting the petitioner School for filling up of the Secondary Grade Teacher post with SC(C) Candidate as per the permission granted by the 3rd respondent dated 27-9-2004 pursuant to the orders of the 1st respondent in Memo No. 19753/P.S.1/2004-1, dated 25-11-2004 is arbitrary, unreasonable as the orders of the 1st respondent is only in prospective and not applicable to the cases in which permission was already granted by the competent authority as per G.O.Ms.No. 116, dated 10-12-1999 and consequently direct the respondents to permit the petitioner school to proceed with selection of filling up of the existing vacancy of Secondary Grade Teacher with SC (C) Category.

Counsel for the Petitioner: MR.G.TUHIN KUMAR

Counsel for the Respondent Nos.1to3: GP FOR SCHOOL EDUCATION

The Court at the admission stage made the following ORDER:

This writ petition is filed by the petitioner-School seeking a Writ of *Mandamus* declaring the action of the respondents in not permitting it from filling up of the Secondary Grade Teacher Post with SC(C) candidate as per the permission granted by the third respondent dated 27.09.2004 pursuant to the orders of the first respondent in Memo No.19753/PS.1/2004-1, dated 25.11.2004, as arbitrary, unreasonable and contrary to the provisions of the Andhra Pradesh Education Act, 1982.

2. According to the petitioner, it was permitted to fill up three posts of Secondary Grade Teachers. Out of which, one is reserved for SC(B) while the other two are; one for OC and another for BC(B). Though the petitioner could fill up the posts meant for OC General and BC (B) candidates, but the post reserved for SC(B) was not filled up for want of suitable candidate. It is stated that the posts intended to be filled up by SC(B) Candidates, can be filled up with next SC (C) candidates to cover up the backlog. Therefore, the petitioner sought for permission and in fact the third respondent issued proceedings dated 27.09.2004, directing the petitioner to proceed with the selection. But, however, the first respondent issued impugned proceedings dated 25.11.2004 stating that there is a ban on recruitment, therefore, no posts could be filled up. Hence, the present writ petition.

3. At the time of hearing, it is represented that this Court has already taken the view that the ban, which was imposed by the Government by Memo dated 20.10.2004 is not applicable with reference to the posts where prior permission has already been granted.

4. Admittedly, the present approval granted by the third respondent for filling up of the vacancy was in January 2004. Though proceedings were initiated for filling up of the said post, the same was not filled up for want of candidate. Therefore, the petitioner again sought for permission from the third respondent and the third respondent again issued proceedings dated 27.09.2004.

5. Under the above circumstances, the impugned proceedings of the first respondent dated 25.11.2004 have no application to the facts of the present case. Therefore, the respondents are directed to allow the petitioner to fill up the vacancy, which is meant for SC(B) by conducting necessary selection process. It is further made clear that as the classification has already been set aside by the Supreme Court, the petitioner is entitled to consider the candidature of SC without reference to the sub - classification.

6. The writ petition is accordingly disposed of with the above directions.

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S.Ananda Reddy, J

Date: 20.06.2005

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1 The Government of Andhra Pradesh,
Rep. by its Principal Secretary,
Education (SE.PS) Department,
Secretariat Buildings, Hyderabad.
2 The Commissioner & Director of School Education,
Andhra Pradesh, Hyderabad.
3 The District Educational Officer, Nellore, Nellore District.

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